



February 17, 2006

ENGROSSED HOUSE BILL No. 1113

DIGEST OF HB 1113 (Updated February 15, 2006 12:58 pm - DI 106)

Citations Affected: IC 34-30; noncode.

Synopsis: Liability connected with consumption of food and beverages. Grants immunity from civil liability for certain persons in the food and beverage industry, including advertisers, marketers, and advertising media, as to a claim concerning weight gain, obesity, a health condition associated with weight gain or obesity, or a generally known condition allegedly caused by or allegedly likely to result from the long term consumption of food or beverages. Provides that the immunity does not apply if the weight gain is related to a pregnancy, or if it relates to certain types of misbranding, adulteration, or knowing and willful violations of state or federal law.

Effective: July 1, 2006.

Foley, Ripley
(SENATE SPONSOR — BRAY)

January 5, 2006, read first time and referred to Committee on Judiciary.
January 17, 2006, reassigned to Committee on Insurance.
January 26, 2006, amended, reported — Do Pass.
January 30, 2006, read second time, ordered engrossed.
January 31, 2006, engrossed.
February 1, 2006, read third time, passed. Yeas 76, nays 21.

SENATE ACTION

February 6, 2006, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.
February 16, 2006, amended, reported favorably — Do Pass.

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February 17, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1113

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-30-23 IS ADDED TO THE INDIANA CODE
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2006]:

4 **Chapter 23. Liability Connected With Consumption of Food and**
5 **Beverages**

6 **Sec. 1. This chapter does not grant immunity from civil liability**
7 **with respect to a claim alleging that:**

8 (1) **an adulteration or misbranding of food or a beverage**
9 **proximately caused the claimed injury, if the adulteration or**
10 **misbranding relates to a labeling or purity requirement under**
11 **state or federal law; or**

12 (2) **a knowing and willful violation of federal or state law**
13 **applicable to the manufacturing, marketing, distribution,**
14 **labeling, or sale of food or a beverage proximately caused the**
15 **claimed injury, unless the alleged injury is unrelated to a**
16 **pregnancy and arises from:**

17 (A) **weight gain;**

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(B) obesity;

(C) a health condition associated with weight gain or obesity; or

(D) a generally known condition allegedly:

(i) caused by; or

(ii) likely to result from;

the long term consumption of food or beverages.

Sec. 2. Section 3 of this chapter applies to the following:

(1) A food or beverage manufacturer.

(2) A food or beverage distributor.

(3) A food or beverage carrier.

(4) A person who stores food or beverages.

(5) A food or beverage seller.

(6) A food or beverage marketer.

(7) A food or beverage advertiser or the advertising medium.

(8) A person who prepares food or beverages.

(9) A group or association containing more than one (1) of the persons referred to in subdivisions (1) through (8).

Sec. 3. This section does not apply to weight gain associated with pregnancy. A person or group or association of persons referred to in section 2 of this chapter is immune from civil liability arising from a claim concerning:

(1) weight gain;

(2) obesity;

(3) a health condition associated with weight gain or obesity; or

(4) a generally known condition:

(A) allegedly caused by; or

(B) allegedly likely to result from;

the long term consumption of food or beverages.

SECTION 2. [EFFECTIVE JULY 1, 2006] IC 34-30-23, as added by this act, does not apply to a cause of action that accrues before July 1, 2006.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred House Bill 1113, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 4, after "Food" insert "**and Beverages**".

Page 1, line 7, after "food" insert "**or a beverage**".

Page 1, line 11, after "food" insert "**or a beverage**".

Page 1, line 13, after "food" insert "**or beverage**".

Page 1, line 14, after "food" insert "**or beverage**".

Page 1, line 15, after "food" insert "**or beverage**".

Page 1, line 16, after "food" insert "**or beverages**".

Page 1, line 17, after "food" insert "**or beverage**".

Page 2, line 1, after "food" insert "**or beverage**".

Page 2, line 2, after "food" insert "**or beverage**".

Page 2, line 15, after "food" insert "**or beverages**".

and when so amended that said bill do pass.

(Reference is to HB 1113 as introduced.)

RIPLEY, Chair

Committee Vote: yeas 7, nays 4.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred House Bill No. 1113, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 9, after "injury" insert "**, if the adulteration or misbranding relates to a labeling or purity requirement under state or federal law**".

Page 1, line 10, after "knowing" insert "**and willful**".

Page 1, line 12, after "injury" insert "**, unless the alleged injury is unrelated to a pregnancy and arises from:**

(A) weight gain;

(B) obesity;

(C) a health condition associated with weight gain or obesity; or

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(D) a generally known condition allegedly:

(i) caused by; or

(ii) likely to result from;

the long term consumption of food or beverages".

Page 2, line 3, after "advertiser" insert " **or the advertising medium**".

Page 2, line 4, after "(8)" insert "**A person who prepares food or beverages.**"

(9)".

Page 2, line 5, delete "(7)" and insert "**(8)**".

Page 2, line 6, after "Sec. 3." insert "**This section does not apply to weight gain associated with pregnancy.**".

and when so amended that said bill do pass.

(Reference is to HB 1113 as printed January 27, 2006.)

LONG, Chairperson

Committee Vote: Yeas 8, Nays 2.

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